

### REMARKS

The comments of the applicant below are each preceded by related comments of the Examiner (in small, bold type).

**Claims 1-5, 11-15, 21-25, 31-38, 40-44, 46-49, 51, 54, 55, 58 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haggard et al. in view of USPN 6,570,867 issued to Robinson et al.**

As amended, claim 1 requires validating the correlations (between the assessments of the performance and the routings of the communications) based on an analysis of one or more parameters associated with the user interactions. Neither Haggard nor Robinson teach at least this feature of claim 1. In Haggard, the Statistical Analysis System (SAS) evaluates resource data to provide statistics that are indicative of system performance, e.g., CPU utilization. Nowhere does Haggard describe using the SAS or any other kind of an analysis for validation purposes. Furthermore, Haggard does not disclose or suggest validating the statistics determined from the resource data, let alone validating any correlations between the statistics and routings of communications.

Robinson identifies paths in the network and monitors their performance. However, Robinson does not teach validating correlations between assessments of performance and the identified paths. Rather, Robinson simply accepts performance assessments determined for an identified path without giving any consideration as to whether the correlation between the assessments and that path is indeed valid.

**Claims 31-38, 40-44, 46-49, 51, 54, 55, 58 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haggard et al. in view of USPN 6,570,867 issued to Robinson et al. in further view of USPN 6,317,787 issued to Boyd et al.**

Boyd does not teach anything that would remedy the foregoing deficiencies of Haggard and Robinson with respect to claim 1.

Independent claims 11 and 21 are patentable for at least the reasons for which claim 1 is patentable. All of the dependent claims are patentable for at least the reasons for which the claims on which they depend are patentable.


Canceled claims, if any, have been canceled without prejudice or disclaimer.

Any circumstance in which the applicant has (a) addressed certain comments of the examiner does not mean that the applicant concedes other comments of the examiner, (b) made arguments for the patentability of some claims does not mean that there are not other good reasons for patentability of those claims and other claims, or (c) amended or canceled a claim does not mean that the applicant concedes any of the examiner's positions with respect to that claim or other claims.

\$810 for the Request for Continued Examination fee and \$120 for the Petition for Extension of Time fee is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account Authorization. Please apply charges for excess claim fees and any other charges or credits to deposit account 06-1050, reference 24121-096001.

Respectfully submitted,

Date: May 7, 2008

  
Cynthia L. Caramana  
Reg. No. 60,628

Fish & Richardson P.C.  
Telephone: (617) 542-5070  
Facsimile: (617) 542-8906